

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JEANNE MARIE JENKINS
P.O. Box 7094
Chico, CA 95972

Registered Nurse License No. 640970

Respondent

Case No. 2013-160

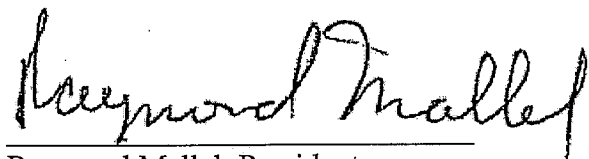
OAH No. 2012100110

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **April 5, 2013.**

IT IS SO ORDERED **March 6, 2013.**



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2013-160

12 **JEANNE MARIE JENKINS**

OAH No. 2012100110

13 **P.O. Box 7094**

14 **Chico, CA 95972**

Registered Nurse License No. 640970

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

Respondent.

16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
17 entitled proceedings that the following matters are true:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of
20 Registered Nursing. She brought this action solely in her official capacity and is represented in
21 this matter by Kamala D. Harris, Attorney General of the State of California, by Kim M. Settles,
22 Deputy Attorney General.

23 2. Respondent Jeanne Marie Jenkins (Respondent) is representing herself in this
24 proceeding and has chosen not to exercise her right to be represented by counsel.

25 3. On or about July 22, 2004, the Board of Registered Nursing issued Registered Nurse
26 License No. 640970 to Jeanne Marie Jenkins (Respondent). The Registered Nurse License was in
27
28

1 full force and effect at all times relevant to the charges brought in Accusation No. 2013-160 and
2 will expire on March 31, 2014, unless renewed.

3 JURISDICTION

4 4. Accusation No. 2013-160 was filed before the Board of Registered Nursing (Board),
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
6 and all other statutorily required documents were properly served on Respondent on September 6,
7 2012. Respondent timely filed her Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. 2013-160 is attached as exhibit A and incorporated by
9 reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, and understands the charges and allegations in
12 Accusation No. 2013-160. Respondent has also carefully read, and understands the effects of this
13 Stipulated Settlement and Disciplinary Order.

14 7. Respondent is fully aware of her legal rights in this matter, including the right to a
15 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
16 her own expense; the right to confront and cross-examine the witnesses against her; the right to
17 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
18 compel the attendance of witnesses and the production of documents; the right to reconsideration
19 and court review of an adverse decision; and all other rights accorded by the California
20 Administrative Procedure Act and other applicable laws.

21 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 CULPABILITY

24 9. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. 2013-160.

26 10. Respondent agrees that her Registered Nurse License is subject to discipline and she
27 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.
28

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 640970 issued to Respondent Jeanne Marie Jenkins (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

Severability Clause. Each condition of probation contained herein is a separate and

1 distinct condition. If any condition of this Order, or any application thereof, is declared
2 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
3 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
4 and enforceable to the fullest extent permitted by law.

5 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and
6 detailed account of any and all violations of law shall be reported by Respondent to the Board in
7 writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with
8 this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within
9 45 days of the effective date of the decision, unless previously submitted as part of the licensure
10 application process.

11 **Criminal Court Orders:** If Respondent is under criminal court orders, including
12 probation or parole, and the order is violated, this shall be deemed a violation of these probation
13 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

14 2. **Comply with the Board's Probation Program.** Respondent shall fully comply with
15 the conditions of the Probation Program established by the Board and cooperate with
16 representatives of the Board in its monitoring and investigation of the Respondent's compliance
17 with the Board's Probation Program. Respondent shall inform the Board in writing within no
18 more than 15 days of any address change and shall at all times maintain an active, current license
19 status with the Board, including during any period of suspension.

20 Upon successful completion of probation, Respondent's license shall be fully restored.

21 3. **Report in Person.** Respondent, during the period of probation, shall appear in
22 person at interviews/meetings as directed by the Board or its designated representatives.

23 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
24 practice as a registered nurse outside of California shall not apply toward a reduction of this
25 probation time period. Respondent's probation is tolled, if and when she resides outside of
26 California. Respondent must provide written notice to the Board within 15 days of any change of
27 residency or practice outside the state, and within 30 days prior to re-establishing residency or
28 returning to practice in this state.

1 Respondent shall provide a list of all states and territories where she has ever been licensed
2 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
3 information regarding the status of each license and any changes in such license status during the
4 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
5 license during the term of probation.

6 **5. Submit Written Reports.** Respondent, during the period of probation, shall submit
7 or cause to be submitted such written reports/declarations and verification of actions under
8 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
9 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
10 Respondent shall immediately execute all release of information forms as may be required by the
11 Board or its representatives.

12 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
13 state and territory in which she has a registered nurse license.

14 **6. Function as a Registered Nurse.** Respondent, during the period of probation, shall
15 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
16 6 consecutive months or as determined by the Board.

17 For purposes of compliance with the section, "engage in the practice of registered nursing"
18 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
19 non-direct patient care position that requires licensure as a registered nurse.

20 The Board may require that advanced practice nurses engage in advanced practice nursing
21 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

22 If Respondent has not complied with this condition during the probationary term, and
23 Respondent has presented sufficient documentation of her good faith efforts to comply with this
24 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
25 extension of Respondent's probation period up to one year without further hearing in order to
26 comply with this condition. During the one year extension, all original conditions of probation
27 shall apply.

28 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain

1 prior approval from the Board before commencing or continuing any employment, paid or
2 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
3 performance evaluations and other employment related reports as a registered nurse upon request
4 of the Board.

5 Respondent shall provide a copy of this Decision to her employer and immediate
6 supervisors prior to commencement of any nursing or other health care related employment.

7 In addition to the above, Respondent shall notify the Board in writing within seventy-two
8 (72) hours after she obtains any nursing or other health care related employment. Respondent
9 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
10 separated, regardless of cause, from any nursing, or other health care related employment with a
11 full explanation of the circumstances surrounding the termination or separation.

12 8. **Supervision.** Respondent shall obtain prior approval from the Board regarding
13 Respondent's level of supervision and/or collaboration before commencing or continuing any
14 employment as a registered nurse, or education and training that includes patient care.

15 Respondent shall practice only under the direct supervision of a registered nurse in good
16 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
17 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
18 approved.

19 Respondent's level of supervision and/or collaboration may include, but is not limited to the
20 following:

21 (a) Maximum - The individual providing supervision and/or collaboration is present in
22 the patient care area or in any other work setting at all times.

23 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
24 care unit or in any other work setting at least half the hours Respondent works.

25 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
26 person communication with Respondent at least twice during each shift worked.

27 (d) Home Health Care - If Respondent is approved to work in the home health care
28 setting, the individual providing supervision and/or collaboration shall have person-to-person

1 communication with Respondent as required by the Board each work day. Respondent shall
2 maintain telephone or other telecommunication contact with the individual providing supervision
3 and/or collaboration as required by the Board during each work day. The individual providing
4 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
5 patients' homes visited by Respondent with or without Respondent present.

6 9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any
7 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,
8 or for an in-house nursing pool.

9 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
10 registered nursing supervision and other protections for home visits have been approved by the
11 Board. Respondent shall not work in any other registered nursing occupation where home visits
12 are required.

13 Respondent shall not work in any health care setting as a supervisor of registered nurses.
14 The Board may additionally restrict Respondent from supervising licensed vocational nurses
15 and/or unlicensed assistive personnel on a case-by-case basis.

16 Respondent shall not work as a faculty member in an approved school of nursing or as an
17 instructor in a Board approved continuing education program.

18 Respondent shall work only on a regularly assigned, identified and predetermined
19 worksite(s) and shall not work in a float capacity.

20 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
21 request documentation to determine whether there should be restrictions on the hours of work.

22 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and
23 successfully complete a course(s) relevant to the practice of registered nursing no later than six
24 months prior to the end of her probationary term.

25 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
26 Respondent shall submit to the Board the original transcripts or certificates of completion for the
27 above required course(s). The Board shall return the original documents to Respondent after
28 photocopying them for its records.

1 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its
2 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
3 amount of \$3,270.00. Respondent shall be permitted to pay these costs in a payment plan
4 approved by the Board, with payments to be completed no later than three months prior to the end
5 of the probation term.

6 If Respondent has not complied with this condition during the probationary term, and
7 Respondent has presented sufficient documentation of her good faith efforts to comply with this
8 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
9 extension of Respondent's probation period up to one year without further hearing in order to
10 comply with this condition. During the one year extension, all original conditions of probation
11 will apply.

12 12. **Violation of Probation.** If Respondent violates the conditions of her probation, the
13 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order
14 and impose the stayed discipline (revocation/suspension) of Respondent's license.

15 If during the period of probation, an accusation or petition to revoke probation has been
16 filed against Respondent's license or the Attorney General's Office has been requested to prepare
17 an accusation or petition to revoke probation against Respondent's license, the probationary
18 period shall automatically be extended and shall not expire until the accusation or petition has
19 been acted upon by the Board.

20 13. **License Surrender.** During Respondent's term of probation, if she ceases practicing
21 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
22 Respondent may surrender her license to the Board. The Board reserves the right to evaluate
23 Respondent's request and to exercise its discretion whether to grant the request, or to take any
24 other action deemed appropriate and reasonable under the circumstances, without further hearing.
25 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be
26 subject to the conditions of probation.

27 Surrender of Respondent's license shall be considered a disciplinary action and shall
28 become a part of Respondent's license history with the Board. A registered nurse whose license

1 has been surrendered may petition the Board for reinstatement no sooner than the following
2 minimum periods from the effective date of the disciplinary decision:

3 (1) Two years for reinstatement of a license that was surrendered for any reason other
4 than a mental or physical illness; or

5 (2) One year for a license surrendered for a mental or physical illness.

6 14. **Physical Examination.** Within 45 days of the effective date of this Decision,
7 Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician
8 assistant, who is approved by the Board before the assessment is performed, submit an
9 assessment of the Respondent's physical condition and capability to perform the duties of a
10 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
11 medically determined, a recommended treatment program will be instituted and followed by the
12 Respondent with the physician, nurse practitioner, or physician assistant providing written reports
13 to the Board on forms provided by the Board.

14 If Respondent is determined to be unable to practice safely as a registered nurse, the
15 licensed physician, nurse practitioner, or physician assistant making this determination shall
16 immediately notify the Board and Respondent by telephone, and the Board shall request that the
17 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
18 immediately cease practice and shall not resume practice until notified by the Board. During this
19 period of suspension, Respondent shall not engage in any practice for which a license issued by
20 the Board is required until the Board has notified Respondent that a medical determination
21 permits Respondent to resume practice. This period of suspension will not apply to the reduction
22 of this probationary time period.

23 If Respondent fails to have the above assessment submitted to the Board within the 45-day
24 requirement, Respondent shall immediately cease practice and shall not resume practice until
25 notified by the Board. This period of suspension will not apply to the reduction of this
26 probationary time period. The Board may waive or postpone this suspension only if significant,
27 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
28 by Respondent to obtain the assessment, and a specific date for compliance must be provided.

1 Only one such waiver or extension may be permitted.

2 **15. Participate in Treatment/Rehabilitation Program for Chemical Dependence.**

3 Respondent, at her expense, shall successfully complete during the probationary period or shall
4 have successfully completed prior to commencement of probation a Board-approved
5 treatment/rehabilitation program of at least six months duration. As required, reports shall be
6 submitted by the program on forms provided by the Board. If Respondent has not completed a
7 Board-approved treatment/rehabilitation program prior to commencement of probation,
8 Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program.
9 If a program is not successfully completed within the first nine months of probation, the Board
10 shall consider Respondent in violation of probation.

11 Based on Board recommendation, each week Respondent shall be required to attend at least
12 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,
13 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.
14 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be
15 added. Respondent shall submit dated and signed documentation confirming such attendance to
16 the Board during the entire period of probation. Respondent shall continue with the recovery plan
17 recommended by the treatment/rehabilitation program or a licensed mental health examiner
18 and/or other ongoing recovery groups.

19 **16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall
20 completely abstain from the possession, injection or consumption by any route of all controlled
21 substances and all psychotropic (mood altering) drugs, including alcohol, except when the same
22 are ordered by a health care professional legally authorized to do so as part of documented
23 medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14)
24 days, by the prescribing health professional, a report identifying the medication, dosage, the date
25 the medication was prescribed, the Respondent's prognosis, the date the medication will no
26 longer be required, and the effect on the recovery plan, if appropriate.

27 Respondent shall identify for the Board a single physician, nurse practitioner or physician
28 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and

1 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
2 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
3 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances
4 considered addictive have been prescribed, the report shall identify a program for the time limited
5 use of any such substances.

6 The Board may require the single coordinating physician, nurse practitioner, or physician
7 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
8 medicine.

9 17. **Submit to Tests and Samples.** Respondent, at her expense, shall participate in a
10 random, biological fluid testing or a drug screening program which the Board approves. The
11 length of time and frequency will be subject to approval by the Board. Respondent is responsible
12 for keeping the Board informed of Respondent's current telephone number at all times.
13 Respondent shall also ensure that messages may be left at the telephone number when she is not
14 available and ensure that reports are submitted directly by the testing agency to the Board, as
15 directed. Any confirmed positive finding shall be reported immediately to the Board by the
16 program and Respondent shall be considered in violation of probation.

17 In addition, Respondent, at any time during the period of probation, shall fully cooperate
18 with the Board or any of its representatives, and shall, when requested, submit to such tests and
19 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
20 hypnotics, dangerous drugs, or other controlled substances.

21 If Respondent has a positive drug screen for any substance not legally authorized and not
22 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
23 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
24 practice pending the final decision on the petition to revoke probation or the accusation. This
25 period of suspension will not apply to the reduction of this probationary time period.

26 If Respondent fails to participate in a random, biological fluid testing or drug screening
27 program within the specified time frame, Respondent shall immediately cease practice and shall
28 not resume practice until notified by the Board. After taking into account documented evidence

1 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
2 suspend Respondent from practice pending the final decision on the petition to revoke probation
3 or the accusation. This period of suspension will not apply to the reduction of this probationary
4 time period.

5 **18. Mental Health Examination.** Respondent shall, within 45 days of the effective date
6 of this Decision, have a mental health examination including psychological testing as appropriate
7 to determine her capability to perform the duties of a registered nurse. The examination will be
8 performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by
9 the Board. The examining mental health practitioner will submit a written report of that
10 assessment and recommendations to the Board. All costs are the responsibility of Respondent.
11 Recommendations for treatment, therapy or counseling made as a result of the mental health
12 examination will be instituted and followed by Respondent.

13 If Respondent is determined to be unable to practice safely as a registered nurse, the
14 licensed mental health care practitioner making this determination shall immediately notify the
15 Board and Respondent by telephone, and the Board shall request that the Attorney General's
16 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
17 practice and may not resume practice until notified by the Board. During this period of
18 suspension, Respondent shall not engage in any practice for which a license issued by the Board
19 is required, until the Board has notified Respondent that a mental health determination permits
20 Respondent to resume practice. This period of suspension will not apply to the reduction of this
21 probationary time period.

22 If Respondent fails to have the above assessment submitted to the Board within the 45-day
23 requirement, Respondent shall immediately cease practice and shall not resume practice until
24 notified by the Board. This period of suspension will not apply to the reduction of this
25 probationary time period. The Board may waive or postpone this suspension only if significant,
26 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
27 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
28 Only one such waiver or extension may be permitted.

19. **Therapy or Counseling Program.** Respondent, at her expense, shall participate in an on-going counseling program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 12/5/12



JEANNE MARIE JENKINS
Respondent

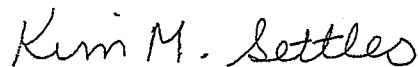
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 12/6/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General



KIM M. SETTLES
Deputy Attorney General
Attorneys for Complainant

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90278600.doc

Exhibit A

Accusation No. 2013-160

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 KIM M. SETTLES
Deputy Attorney General
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Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2013-160**

12 **JEANNE MARIE JENKINS**
13 **4216 Magness Court**
Chico, CA 95973
14 **Registered Nurse License No. 640970**

A C C U S A T I O N

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
19 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
20 Consumer Affairs.

21 2. On or about July 22, 2004, the Board of Registered Nursing issued Registered Nurse
22 License Number 640970 to Jeanne Marie Jenkins (Respondent). The Registered Nurse License
23 was in full force and effect at all times relevant to the charges brought in this Accusation and will
24 expire on March 31, 2014, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
2 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
3 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
4 Nursing Practice Act.

5 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
6 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
7 licensee or to render a decision imposing discipline on the license.

8 6. Section 118, subdivision (b), of the Code provides that the expiration of a license
9 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
10 within which the license may be renewed, restored, reissued or reinstated.

11 STATUTORY PROVISIONS

12 7. Section 2761 of the Code states:

13 "The board may take disciplinary action against a certified or licensed nurse or deny an
14 application for a certificate or license for any of the following:

15 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

16 8. Section 2762 of the Code states:

17 "In addition to other acts constituting unprofessional conduct within the meaning of this
18 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
19 chapter to do any of the following:

20 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
21 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
22 administer to another, any controlled substance as defined in Division 10 (commencing with
23 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
24 defined in Section 4022.

25 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
26 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
27 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
28

1 himself or herself, any other person, or the public or to the extent that such use impairs his or her
2 ability to conduct with safety to the public the practice authorized by his or her license.”

3 9. Section 2770.11 of the Code states:

4 “(a) Each registered nurse who requests participation in a diversion program shall agree to
5 cooperate with the rehabilitation program designed by the committee and approved by the
6 program manager. Any failure to comply with the provisions of a rehabilitation program may
7 result in termination of the registered nurse’s participation in a program. The name and license
8 number of a registered nurse who is terminated for any reason, other than successful completion,
9 shall be reported to the board’s enforcement program.

10 “(b) If the program manager determines that a registered nurse, who is denied admission
11 into the program or terminated from the program, presents a threat to the public or his or her own
12 health and safety, the program manager shall report the name and license number, along with a
13 copy of all diversion records for that registered nurse, to the board’s enforcement program. The
14 board may use any of the records it receives under this subdivision in any disciplinary
15 proceeding.

16 COST RECOVERY

17 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
18 administrative law judge to direct a licensee found to have committed a violation or violations of
19 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
20 enforcement of the case.

21 DRUGS

22 11. “Temazepam” (trade name Restoril) is a benzodiazepine used to treat insomnia. In
23 addition, Temazepam has anxiolytic (anti-anxiety), anticonvulsant, and skeletal muscle relaxant
24 properties. It is a Schedule IV controlled substance pursuant to Health and Safety Code section
25 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code
26 section 4022.

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28 ///

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Use of Controlled Substance)**

3 12. Respondent has subjected her license to disciplinary action under Code section 2761,
4 subdivision (a) on the grounds of unprofessional conduct, as defined in Code section 2762,
5 subdivision (b), in that while enrolled in the Board's Diversion Program, Respondent relapsed
6 and used controlled substances as follows:

- 7 a. On or about May 13, 2011, Respondent self-referred to the Board's Diversion
8 Program for alcoholism, after she admitted to drinking while on call at her place of employment.
9 b. On July 1, 2011, Respondent admitted to self-administering Restoril due to insomnia.
10 c. On October 22, 2011, Respondent tested positive for Benzodiazepines and
11 Temazepam.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct - Obtain Controlled Substance)**

14 13. Respondent has subjected her license to disciplinary action under Code section 2761,
15 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,
16 subdivision (a), in that she unlawfully obtained and/or possessed controlled substances as set
17 forth in paragraph 11, above.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Failure to Comply with Rehabilitation Program)**

20 14. Respondent has subjected her license to disciplinary action under Code section
21 2770.11 in that she failed to comply with the Board's Diversion Program, as set forth in
22 paragraph 11, above, was deemed a "public safety risk" and terminated from the Board's
23 Diversion Program on February 1, 2012.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct - Use of Alcohol)**

26 15. Respondent has subjected her license to disciplinary action under Code section 2761,
27 subdivision (a), on the grounds of unprofessional conduct as defined in section 2762, subdivision
28 (b), in that on or about March 1, 2011, while employed as a registered nurse at Mad River

1 Hospital in Arcata, California, Respondent admitted to consuming alcohol when she was on-call.
2 Respondent's manager went to Respondent's residence after Respondent did not answer a page to
3 report to work, and found Respondent intoxicated.

4 **PRAYER**

5 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
6 Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

- 7 1. Revoking or suspending Registered Nurse License Number 640970, issued to Jeanne
8 Marie Jenkins;
9 2. Ordering Jeanne Marie Jenkins to pay the Board of Registered Nursing the reasonable
10 costs of the investigation and enforcement of this case, pursuant to Business and Professions
11 Code section 125.3;
12 3. Taking such other and further action as deemed necessary and proper.

13 DATED: September 5, 2012

for Marie R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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